

FILED

2650

APR 25 2016

SECRETARY, BOARD OF  
OIL, GAS & MINING

Return of Service

State of Utah

1<sup>st</sup>

4-14-16 1522

2<sup>nd</sup>

4-15-16

County of Uintah

3<sup>rd</sup>

4<sup>th</sup>

I Deputy Derek Nelson, being a person over the age of twenty-one years, not a party to the entitled action, hereby certify and return that

On the

15

of

4

, 20

16

at Time:

1230

Defendant Served:

MARK L PETERSON

Process Served:

☒ Administrative Summons Docket # 2016-013 Cause # 207-03

☒ Notice of Agency Action

( ) Personal

( ) Address

3050 N 2050 W, Vernal UT 84057

☒ At the usual place of abode with a person of suitable age and discretion there residing

With:

ALISON PETERSON 20 yo Daughter

Plaintiff:

State of Utah

Service Address:

3050 N 2050 W Vernal UT 84057

Place Served-

☒ Home

( ) Jail

( ) Business

( ) Agreed Meeting Place

Reason Not Served-

( ) Recalled

( ) Unable to Locate

Deputy:

*[Signature]*

Comment:

Total

0

Notary



Steven F. Alder (No. 0033)  
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*Attorneys for Utah Division of Oil, Gas and Mining*

**UINTAH COUNTY SHERIFF**  
**Person Served** Alison Peterson  
**Date & Time** 4-15-16 12:30  
**Deputy** Deleah Noh

BEFORE THE UTAH BOARD OF OIL, GAS AND MINING

Notice of Agency Action for an Order  
Requiring Hot Rod Oil to plug and reclaim  
its Govt. "AF" No. 1 Well, located in the  
SE¼SW¼ of Section 27, Township 13  
South, Range 21 East, in Uintah County,  
Utah

**ADMINISTRATIVE  
SUMMONS**

Docket No. 2016-013  
Cause No. 207-03

TO: MARK L. PETERSON, RESPONDENT  
3050 North 2050 West  
Vernal, UT 84078

FROM THE STATE OF UTAH TO THE ABOVE-NAMED RESPONDENT:

You are hereby summoned to respond to the Utah Division of Oil, Gas, and Mining's (the Division) Notice of Agency Action (NOAA) attached hereto. This NOAA initiates a formal adjudicative hearing under the jurisdictional and procedural authority of Utah Code Ann. § 40-6-5, and in accordance with Utah Administrative Code Title R641.

**A Response to the NOAA must be made in writing and filed within 20 days of the date of the service of this summons. The form of the Response is set forth at Utah Administrative Code Rules 641-104-131.500, 140, 230.**

In accordance with the above rules, unless otherwise resolved or continued, this matter will be heard at the Board of Oil, Gas and Mining (the Board) Hearing scheduled for 9:00 a.m., Wednesday, May 25, 2016 in the Auditorium of the Utah Department of Natural Resources Building located at 1594 West North Temple, Salt Lake City, Utah.

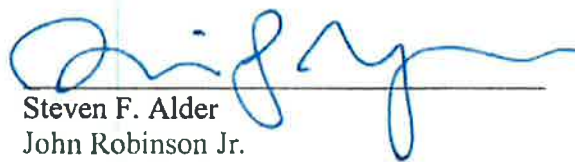
**If you fail to file a Response, attend, or participate in the hearing, the Board may enter a Default Order against you and grant the relief requested by the NOAA.**

All written responses, pleadings, and communications concerning the NOAA must be identified by the name of the proceeding and the Board's reference number reflected in the caption of this notice and directed to:

Utah Board of Oil, Gas and Mining  
1594 West North Temple, Suite 1210  
Salt Lake City, Utah 84116  
Phone: (801) 538-5277

DATED this 2<sup>nd</sup> day of April, 2016.

UTAH OFFICE OF THE ATTORNEY GENERAL



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Notice of Agency Action for an Order  
Requiring Hot Rod Oil to plug and reclaim  
its Govt. "AF" No. 1 Well, located in the  
SE¼SW¼ of Section 27, Township 13  
South, Range 21 East, in Uintah County,  
Utah

**NOTICE OF AGENCY ACTION**

Docket No. 2016-013  
Cause No. 207-03

The Division of Oil, Gas and Mining (the Division) submits this Notice of Agency  
Action seeking an Order from the Board of Oil, Gas and Mining (the Board):

- (1) requiring Mark L. Peterson, DBA Hot Rod Oil, (together, Hot Rod) to plug and  
reclaim the Govt. "AF" No. 1 Well (the Well) as required by Utah Administrative Code  
Rule 649-3-36.3; and
- (2) providing that, in the event Hot Rod fails to commence plugging and reclamation  
work as ordered,
  - (a) that Hot Rod is liable for civil penalties of up to \$5000 per day of continuing  
violation; and
  - (b) authorizing the Division to conduct plugging and reclamation of the Well and  
to recover all costs associated with that work from Hot Rod.

## **Jurisdiction and Procedure**

1. This matter addresses violations of the Oil and Gas Conservation Act, and the corresponding Rules, by Hot Rod Oil.
2. The Board has jurisdiction over this proceeding under Utah Code § 40-6-5, which grants the Board “jurisdiction over all persons and property necessary to enforce this chapter” and authority to regulate well plugging and site reclamation.
3. This proceeding is to be conducted formally in accordance with the Utah Administrative Code Titles R641 and R649, and with Sections 63G-4-204 to -209 of the Utah Code.
4. This proceeding may affect the property interests of Hot Rod Oil, Mark L. Peterson, Burton H. and Christine DeLambert, Summit Operating, LLC, and the Bureau of Land Management (BLM). Each is a “respondent” as defined by Utah Administrative Code Rule 641-100-200. However, BLM and the DeLamberts are named respondents based solely on their property interests, and the Division is not seeking an Order against them.
5. Respondents must file and serve a written response within 20 days of the mailing date of this Notice of Agency Action. Utah Admin. Code R. 641-104-141. A party that fails to either file a response or attend or participate in the hearing may be held in default. *Id.* R. 641-104-100.151.
6. Unless otherwise ordered by the Board, the hearing on this matter will be held on May 25, 2016 at 9 a.m. in the auditorium of the Utah Department of Natural Resources building, 1594 West North Temple, Salt Lake City, Utah.

## **Legal Background**

7. The Utah Oil and Gas Conservation Act (the Act) grants the Board authority to regulate “all operations for and related to the production of oil or gas” which includes plugging wells and reclaiming well sites. Utah Code § 40-6-5(3).

8. The Board promulgated rules to administer the Act in the Utah Oil and Gas Conservation General Rules (the Rules), at Utah Administrative Code Title R649.

9. Among other things, the Act requires wells to be “drilled, cased, operated, and plugged in such a manner as to prevent . . . the pollution of fresh water supplies by oil, gas, or salt water.” Utah Code § 40-6-5. The Rules outline specific drilling and operating practices operators must adhere to. Utah Admin. Code R. 649-3-1 to -39.

10. One such drilling and operating practice requires operators to “take all reasonable precautions to avoid polluting lands, streams, reservoirs, natural drainage ways, and underground water.” *Id.* R. 649-3-15.

11. In addition, the Rules contain requirements for shut-in and temporarily abandoned wells. *See id.* R. 649-3-36. These provisions limit the amount of time a well can be shut-in or abandoned. Specifically, operators must plug a well after a five year period of non-activity or non-productivity unless the Division approves an extended shut-in time. *Id.*

12. If the Division orders an operator to plug a well after a five year period and the operator does not comply with that order, “the operator shall forfeit the drilling and reclamation bond and the well shall be properly plugged and abandoned under the direction of the Division.” *Id.* R. 649-3-36.

13. If there is no reclamation bond to forfeit, the Board may order the Division to plug and restore the well. *See id.* R. 649-3-1.16.4.5 (allowing the Board to take “action the Board deems reasonable and appropriate.”).

14. If the amount of a forfeited bond is not sufficient to plug and restore a well, the Division may complete the plugging and restoration work and may recover all costs in excess of the forfeited funds from the operator. *Id.* R. 649-3-1.16.5. Where the operator has not posted a bond

and the Division undertakes plugging and restoration, the Division may recover all costs from the operator.

15. The Rules apply to all lands in Utah, “including lands of the United States and lands subject to the jurisdiction of the United States to the extent lawfully subject to the state’s power.” *Id.* R. 649-2-2.

16. If, after an adjudicative proceeding, the Board determines that a person violated the Rules, that person is subject to civil penalties of up to \$5000 per day of violation. Utah Code § 40-6-11(4)(a). Civil penalties must be pursued in a separate civil action in district court if authorized by the Board. *Id.*

### **Allegations**

17. The Bureau of Land Management (BLM) manages the mineral estate on behalf of the United States of America.

18. Summit Operating, LLC operates the Unit in which the Well is located.

19. Hot Rod Oil is a trade name of Mark L. Peterson of Vernal, Utah. (This relationship is also known as “doing business as” under Utah law.)

20. Mark L. Peterson, DBA Hot Rod Oil, is the designated operator of the Govt. “AF” No. 1 Well, API No. 43-047-30143, which is located in the SE¼SW¼ of Section 27, Township 13 South, Range 21 East, in Uintah County, Utah.

21. Because Hot Rod Oil is not a corporate form, it provides no liability protection for Mark L. Peterson, who is personally liable in this action.

22. On information and belief, the surface estate where the Well is located is privately owned by Burton H. and Christine DeLambert.

23. The Well is located approximately 600 feet away from Willow Creek, which is tributary to the Green River. It also is located near ground water sources that feed into Willow Creek.

24. Texaco, Inc., originally spud the Well on August 6, 1973.

25. Hot Rod took over as the operator of the Well in November 1995.

26. Hot Rod produced the Well until it shut-in the Well in December 2000. Although Hot Rod brought the Well back onto production for a few months in 2002 and 2003, the Well has been continuously shut-in since August of 2003.

27. Hot Rod stopped providing production reports to the Division in June of 2015.

28. The Division issued Hot Rod a Notice of Violation (NOV) on August 21, 2015 because a master valve on the production casing was rusted, corroded, and leaking.

29. In addition, NOV noted that the pressure gauge at the wellhead indicated 940 pounds of pressure on the back side, a strong indication of a downhole problem with casing and cement. Hot Rod received the NOV on August 31, 2015.

30. On February 11, 2016, the Division issued a Well Plugging Order because Hot Rod had not addressed the violations in the NOV. Hot Rod did not respond to the Plugging Order.

31. On March 24, 2016 a Division inspector documented that the pressure gauge had been removed from the wellhead.

32. As no workover or remediation was conducted or planned, removal of the pressure gauge strongly suggests that Hot Rod is trying to conceal the downhole problems at the Well.

33. In the Division's opinion, the Well needs to be plugged because it has numerous problems that could lead to significant environmental damage if not plugged, abandoned, and reclaimed.



34. Hot Rod is in violation of the Rules because it did not plug its well after five years of non-activity as required by Utah Administrative Code Rule 649-3-36.3. Hot Rod also failed to respond to the Division's NOV and failed to take action after the Division issued the Plugging Order. Hot Rod is therefore subject, in a separate civil proceeding, to a penalty of up to \$5000 per day of continuing violation.

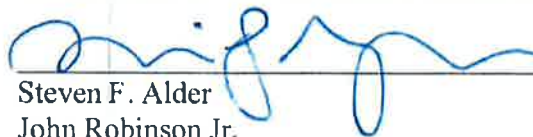
### **Request for Action**

Based on the above, the Division moves the Board to take the following actions:

1. Order Hot Rod to commence plugging and restoration of the Well by June 22, 2016, or other date as determined by the Board;
2. If Hot Rod fails to commence plugging and restoration by the required date:
  - a) Order the Division to complete plugging and restoration of the Well;
  - b) Order the Division to seek all costs associated with the plugging and restoration work from Hot Rod in a civil action;
  - c) Find that Hot Rod, jointly and severally with Mark L. Peterson, violated the Act; and
  - d) Authorize the Division to seek civil penalties in district court in an amount the Board deems appropriate, not to exceed \$5000 per day of continuing violation; and
3. Grant further relief that the Board deems just and proper.

Respectfully submitted on the 11<sup>th</sup> day of April, 2016.

UTAH OFFICE OF THE ATTORNEY GENERAL



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*Attorneys for the Division of Oil, Gas and Mining*

*Addresses Required by Rule:*

Utah Board of Oil, Gas and Mining:  
Ruland J Gill, Jr.  
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Board of Oil, Gas and Mining  
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